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**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-204849

**DATE:** March 10, 1982

**MATTER OF:** Global Crane Institute

**DIGEST:**

1. Where the only evidence on an issue consists of conflicting statements by the protester and the contracting agency, the protester has not carried its burden of proof.
2. Firm whose bid is received several calendar days after bid opening is not prejudiced by a few hours delay in bid opening where no bids are accepted after the time specified in the invitation and where the firm's bid cannot be considered under the late bid rules.

Global Crane Institute (Global) protests any award of a contract for elevator maintenance services under solicitation No. IFB-649-14-81, issued by the Veterans Administration Medical Center, Prescott, Arizona. Global contends that the contracting officer should reject all bids and cancel the solicitation because of an alleged delay in bid opening.

We deny the protest.

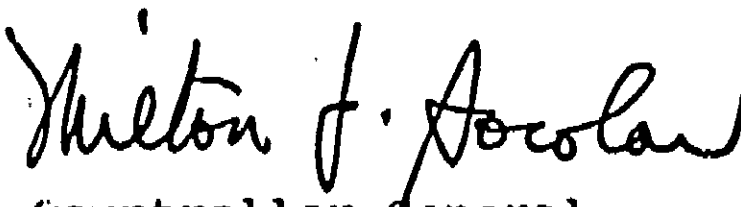
The solicitation established the bid opening date as September 4, 1981, at 10 a.m. Global's bid was sent by certified mail on August 31, but it had not been delivered by the day bids were opened. Global alleges that at 3:03 p.m. on bid opening day the contracting officer advised Global that he had not yet opened the bids. On September 8, Global asserts, the contracting

officer informed it that its bid had not yet arrived and that bid opening revealed Elevator Specialty Co. of Arizona to be the apparent low bidder. The contracting officer received Global's bid sometime after the conversation of September 8, and returned it unopened.

Global maintains that the contracting officer delayed bid opening at least five hours and that the delay requires cancellation of the solicitation. On the other hand, the contracting officer disputes that there was a delay in bid opening. Global has the burden of affirmatively proving that a delay occurred and where, as here, conflicting statements of the protester and the contracting officer constitute the only evidence, the protester has not met its burden of proof. Harris Corporation, B-200321.2, June 9, 1981, 81-1 CPD 468. Therefore, we cannot conclude that the alleged delay actually occurred.

In any case, although substantial or frequent delays in opening bids should be avoided, see 48 Comp. Gen. 413 (1968), we do not see how Global would have been prejudiced here even if the contracting officer had opened bids late. There is no suggestion that any bid was accepted after the time specified in the invitation for the receipt of bids. See William F. Wilke, Inc., 56 Comp. Gen. 419 (1977), 77-1 CPD 197. In addition, Global's bid did not arrive by the day bids were opened and it could not be considered under the late bid clause of the solicitation. While that clause permits consideration of late bids which are received before award when the bids are sent by registered or certified mail not later than the fifth calendar day prior to bid opening, Federal Procurement Regulations § 1-2.201(a)(31) (1964 ed.), Global's bid was sent by certified mail four calendar days prior to bid opening.

The protest is denied.

*for*   
Comptroller General  
of the United States